

**TROY GERMAN,
PLAINTIFF, V. BRIAN
ORR, DEFENDANT
WDOK 19-CV-751-F
MOTION EXHIBITS FOR
DEFENDANT ORR'S
MOTION FOR SUMMARY
JUDGMENT**

**EXHIBIT 7 – TRANSCRIPT
OF AUDIO RECORDING
OF ORR/GERMAN**

Audio Transcription
7/27/2020

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TRANSCRIPTION OF AUDIO FILE 2018-JUL-17_14-05-15

TRANSCRIBED BY: LORI JOHNSTON HARSTAD, CSR

TROY GERMAN: How are you, sir?

BRIAN ORR: Oh, doing all right. You doing all right?

1 TROY GERMAN: Good looking car, though. Tidy.
1 Whenever you drove up, I was like, Well, that's not Brian.
1 When you got out, I am like, Well, that is Brian.

1 Oh.

1 BRIAN ORR: Knees are hurting you, ain't you?
1 I can tell. Man, go get them things fixed.

1 TROY GERMAN: Well, before I retire --

1 BRIAN ORR: You will?

1 TROY GERMAN: -- I will get that knee surgery.
1 But I will wait until I retire.

2 THE WAITRESS: All right, Gentlemen.

2 TROY GERMAN: Thank you, ma'am.

2 THE WAITRESS: What can I get to start you out
2 with to drink today? We've got sweet tea, unsweet tea,
2 Dr. Pepper, Pepsi.

2 TROY GERMAN: Unsweet tea.

Δ π EXHIBIT 1
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<p>1 BRIAN ORR: I need a water, please.</p> <p>2 THE WAITRESS: You got it. Do you want lemon</p> <p>3 with your water?</p> <p>4 BRIAN ORR: No, ma'am.</p> <p>5 THE WAITRESS: All right. And do you want</p> <p>6 lemon with your tea?</p> <p>7 TROY GERMAN: Please.</p> <p>8 THE WAITRESS: Need sweetener?</p> <p>9 TROY GERMAN: Sweet'N Low.</p> <p>10 All right. Let's break that out. Let's talk.</p> <p>11 Buddy, can we -- can we talk plainly for a</p> <p>12 minute?</p> <p>13 BRIAN ORR: You know better than that.</p> <p>14 TROY GERMAN: All right. I have been thinking</p> <p>15 about this grinning ear to ear all morning. How in the</p> <p>16 heck -- how in the heck does the Chief of the Patrol call</p> <p>17 Lieutenant Brian Orr? Bud, do you -- do you have a picture</p> <p>18 of a hairy goat or what?</p> <p>19 BRIAN ORR: I -- I was sitting down there</p> <p>20 whenever -- getting ready to get my hair cut this morning.</p> <p>21 And of course, I had my phone, phone plugged in. And at</p> <p>22 7:40 this morning -- thank you, ma'am.</p> <p>23 THE WAITRESS: You're welcome.</p> <p>24 TROY GERMAN: Thank you.</p> <p>25 THE WAITRESS: You're welcome. Do you guys</p>	Page 2	Page 4
<p>1 want a few minutes to kind of visit and do what you got to</p> <p>2 do or do you --</p> <p>3 BRIAN ORR: Go ahead and -- we're ready to</p> <p>4 order.</p> <p>5 TROY GERMAN: Are you going to get anything?</p> <p>6 BRIAN ORR: No. I am good. I am good.</p> <p>7 TROY GERMAN: You're not going to get anything?</p> <p>8 BRIAN ORR: No. But you eat.</p> <p>9 TROY GERMAN: You know what --</p> <p>10 BRIAN ORR: Don't play around. Eat.</p> <p>11 TROY GERMAN: No. I'm going to hold off.</p> <p>12 BRIAN ORR: No. Then I am -- then I am eating.</p> <p>13 TROY GERMAN: No. Don't do that. My wife just</p> <p>14 called me a minute ago. I will head home.</p> <p>15 Just this right now.</p> <p>16 THE WAITRESS: All right, you two. If you need</p> <p>17 anything else, my name is Olivia. Just let me know.</p> <p>18 BRIAN ORR: Thank you.</p> <p>19 TROY GERMAN: So hey, when you called me, I</p> <p>20 knew it had to have just happened.</p> <p>21 BRIAN ORR: It did. Well, whatever time I</p> <p>22 called you, he called. I go in to get my hair cut, I come</p> <p>23 out and call you. So... And, of course, you know, I am --</p> <p>24 yeah. I am writing down what he's saying, you know. And,</p> <p>25 of course, I'm just scribbling it down as he's going. And,</p>	Page 3	Page 5
<p>1 TROY GERMAN: Traffic safety plan?</p> <p>2 BRIAN ORR: Which I took, just like you, he's</p> <p>3 talking about a collision reduction, is kind of the way I</p> <p>4 took it. I just wrote it down. That's what he said.</p> <p>5 TROY GERMAN: Uh-huh.</p> <p>6 BRIAN ORR: But I took it as a collision</p> <p>7 reduction plan.</p> <p>8 TROY GERMAN: Okay. Now, do you --</p> <p>9 BRIAN ORR: I mean, how -- what else is there</p> <p>10 to take it as?</p> <p>11 TROY GERMAN: Well... I don't know.</p> <p>12 BRIAN ORR: May not look so good on there.</p> <p>13 TROY GERMAN: Yeah. We're going to see about</p> <p>14 those others.</p> <p>15 The trooper killed in line of duty, now, on</p> <p>16 that one, did he -- when he said "trooper killed in the</p> <p>17 line of duty," you're not talking about the -- when he was</p> <p>18 talking to you, you didn't get the idea that he was talking</p> <p>19 about the trooper-involved shooting or a crime scene? That</p> <p>20 -- you're talking about "in the line of duty" death, what</p> <p>21 we do when it happened, the hospital, dealing with the</p> <p>22 family?</p> <p>23 BRIAN ORR: That's what I --</p> <p>24 TROY GERMAN: That stuff?</p> <p>25 BRIAN ORR: That's what I have been reading in</p>		

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1 policy is that right there.	1 BRIAN ORR: Right.
2 TROY GERMAN: Okay. No. That's what I have	2 TROY GERMAN: So it was like very, very -- I
3 done.	3 mean, it is like --
4 BRIAN ORR: So yeah.	4 BRIAN ORR: Yeah.
5 TROY GERMAN: Okay. I went through this on	5 TROY GERMAN: -- it is pathetically low.
6 that.	6 BRIAN ORR: This is what I found in policy, and
7 Freaking Chief of the Patrol calling you. God	7 I found like ten of them. Of course, what we're talking
8 dang, man. I tell you what.	8 about there, major or --
9 BRIAN ORR: What does that mean?	9 TROY GERMAN: Right.
10 TROY GERMAN: Been to a couple of goat ropers	10 BRIAN ORR: -- or troop commander. And there
11 with few hands. Never seen anything like it.	11 -- there were ten things in policy that followed that up.
12 BRIAN ORR: Well, Captain, his exact words was	12 Of course, responding to the scene.
13 "If you screw this up, it's on you," was his exact words.	13 TROY GERMAN: Right.
14 TROY GERMAN: Brother, I would tend to agree	14 BRIAN ORR: Ensuring that the family members
15 with you. Tend to agree. All right. Here we go.	15 are notified, obviously. Notification to the major, the
16 BRIAN ORR: Man, I left my dadgum pen out	16 duty officer. Notifying the PIO and -- can't read
17 there.	17 upside-down there.
18 TROY GERMAN: That's all right. Hey, we --	18 TROY GERMAN: Human resources.
19 BRIAN ORR: I am a note guy.	19 BRIAN ORR: Human resources.
20 TROY GERMAN: Okay. Now, on this, all I have	20 TROY GERMAN: Chaplain.
21 got on this now, line of duty or death of active member,	21 BRIAN ORR: Yeah. Insurance company. Of
22 whether it's active member in the line of duty or active	22 course, notifying the commissioner office. Assigning a
23 member death pretty much all gets treated the same. The	23 liaison at the hospital.
24 crime scene is the difference -- is different.	24 TROY GERMAN: Got that.
25 BRIAN ORR: Yeah. Yeah.	25 BRIAN ORR: Assigning a liaison for...
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1 TROY GERMAN: I mean, like --	1 TROY GERMAN: Funeral.
2 BRIAN ORR: Yeah.	2 BRIAN ORR: Funeral. And...
3 TROY GERMAN: But the duties of a captain,	3 TROY GERMAN: Duty benefits. Yeah.
4 Brother... And that's the problem we're going to have.	4 BRIAN ORR: Yeah. For benefits. Maintaining
5 However, the Chief of the Patrol appoints an incident	5 all files pertaining to the incident.
6 commander. Did you read that?	6 TROY GERMAN: Yeah. Remains -- trooper remains
7 BRIAN ORR: I read that. Sure did.	7 in residence.
8 TROY GERMAN: So it's either going to be a	8 BRIAN ORR: Yes. Yep. It actually went into
9 patrol major or --	9 further detail on that. Up to eight hours after --
10 BRIAN ORR: Or the members...	10 TROY GERMAN: That's right. Through eight
11 TROY GERMAN: Of the cabinet.	11 hours after the funeral, minimum. Yeah. Private --
12 BRIAN ORR: Of the cabinet.	12 BRIAN ORR: So yeah. We're on the same sheet
13 TROY GERMAN: Okay. So I went with it that	13 of --
14 that's how it's going to be worded. It's going to say	14 TROY GERMAN: Okay.
15 something like member appoint -- active member or member	15 BRIAN ORR: We're on the same sheet of music
16 involved "in the line of duty" death and that the Chief of	16 here.
17 Patrol appoints you, the active troop commander, as the	17 TROY GERMAN: Private waiting room for
18 incident commander. Brother -- or what are the duties of	18 hospital --
19 the incident commander. There aren't -- well, there's	19 BRIAN ORR: Yes.
20 only, like, one or two things of the troop commander, and	20 TROY GERMAN: -- and family troopers, appoint.
21 even them are minute.	21 BRIAN ORR: That part's right here.
22 BRIAN ORR: Yeah.	22 TROY GERMAN: Information liaison, that's the
23 TROY GERMAN: This says patrol duty -- patrol	23 hospital one that you're talking about?
24 supervisor, duty supervisor, or the troop commander will	24 BRIAN ORR: Uh-huh.
25 notify the patrol duty officer.	25 TROY GERMAN: Ensure -- I said "driven."

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<p>1 Family driven to the hospital.</p> <p>2 BRIAN ORR: Yeah. Got that on there.</p> <p>3 TROY GERMAN: Those are the very things we</p> <p>4 already know. I just bullet-pointed it so you could</p> <p>5 compare it and look at that.</p> <p>6 Now, the disciplinary matrix, man --</p> <p>7 BRIAN ORR: Yeah. This one here, boy, you can</p> <p>8 get off in the weeds real quick.</p> <p>9 TROY GERMAN: There's only going to be so many.</p> <p>10 I almost want to hear how somebody goes through the -- what</p> <p>11 time is your board?</p> <p>12 BRIAN ORR: 1:00.</p> <p>13 TROY GERMAN: All of that is after lunch. I</p> <p>14 almost want to hear how somebody goes through the board in</p> <p>15 the morning to see how those questions actually are worded.</p> <p>16 BRIAN ORR: Yeah.</p> <p>17 TROY GERMAN: Because that will -- everything</p> <p>18 will hinge on how it's worded.</p> <p>19 BRIAN ORR: Yeah.</p> <p>20 TROY GERMAN: "So-and-so got disciplined, how</p> <p>21 do you proceed?"</p> <p>22 Well, now, that completely changes other than</p> <p>23 what are the separate levels of -- well, there are no --</p> <p>24 those are action levels is what those are for the two</p> <p>25 phases of discipline, informal and formal. Well, within</p>	Page 10	Page 12
<p>1 those two phases, all of those level -- action levels are</p> <p>2 within those two phases.</p> <p>3 Well, what do you want? What are you looking</p> <p>4 for?</p> <p>5 BRIAN ORR: I know. And that's --</p> <p>6 TROY GERMAN: So what I have done --</p> <p>7 BRIAN ORR: Okay. I got to writing on here,</p> <p>8 and I mean, it --</p> <p>9 TROY GERMAN: Yeah.</p> <p>10 BRIAN ORR: -- you can get off in the weeds.</p> <p>11 TROY GERMAN: Yeah. You can go nuts on it.</p> <p>12 So what I have tried to do on the disciplinary</p> <p>13 deal, one of the things I would start with -- Brian, I</p> <p>14 would start, no matter -- because your mind will be</p> <p>15 absorbing everything once they read the question. There's</p> <p>16 no way I wouldn't start with a statement, something similar</p> <p>17 to this. Okay? Now, if they start with this -- if they</p> <p>18 start with this statement, I wouldn't -- I wouldn't repeat</p> <p>19 it.</p> <p>20 BRIAN ORR: Right.</p> <p>21 TROY GERMAN: I wouldn't regurgitate it. But</p> <p>22 this is a combination of about two or three statements of</p> <p>23 policy that I put in there. Okay? But, of course, I talk</p> <p>24 about being a troop commander should promote this idea of</p> <p>25 self-discipline and --</p>	Page 11	Page 13
		<p>1 all of a sudden, we're all standing back here, we're going,</p> <p>2 "Oh, my god. The sky is falling."</p> <p>3 BRIAN ORR: Yeah.</p> <p>4 TROY GERMAN: "What happened? What happened?"</p> <p>5 The same thing with (indiscernible) and all his</p> <p>6 horse crap.</p> <p>7 BRIAN ORR: Yeah.</p> <p>8 TROY GERMAN: Brandon Schneider knew --</p> <p>9 BRIAN ORR: Yeah.</p> <p>10 TROY GERMAN: -- that he was taking too long</p> <p>11 on traffic stops with females. Never took action. The</p> <p>12 idea is when the discipline, when little things happen,</p> <p>13 it's progressive. We prove it happens quick. We take care</p> <p>14 of it when it's little.</p> <p>15 BRIAN ORR: Yeah.</p> <p>16 TROY GERMAN: Self-discipline, we don't want</p> <p>17 that anymore. So self-discipline -- where we -- actually,</p> <p>18 disappeared, hopefully. But self-discipline is going on</p> <p>19 there. In our line of work, your discipline can get bad.</p> <p>20 But...</p> <p>21 Now, any kind of discipline -- now, these are</p> <p>22 supervisory duties. And I think you probably know them,</p> <p>23 BRIAN ORR: Uh-huh.</p> <p>24 TROY GERMAN: Now, the two pages, formal --</p> <p>25 informal and formal, the action levels as far as the seven</p>

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1 levels of action, that's what he's talking about. Okay? 2 BRIAN ORR: Well -- 3 TROY GERMAN: Because those very things -- 4 BRIAN ORR: Of course, you've got seven. 5 TROY GERMAN: Yeah. There's seven. 6 BRIAN ORR: Of course, he said five. 7 TROY GERMAN: I think y'all heatedly go 1, 2, 8 3, 4, 5, whatever. 9 BRIAN ORR: Well, if you go in there and you -- 10 and I know you know this, but -- 11 TROY GERMAN: Well, I don't know. I may have 12 missed it. 13 BRIAN ORR: Well, of course, as I am doing all 14 of my notes here. Where is my -- where is my -- yeah. 15 Talking about the levels. 16 Of course, informal, you've got your VICO. 17 Again, I can't read upside-down. Two was a written 18 reprimand. Three, suspension without pay 1 to 30 days. 19 Four was suspension without pay 31 days or more. 20 TROY GERMAN: Right. 21 BRIAN ORR: And five is termination. So is 22 that -- 23 TROY GERMAN: Wait a minute. 24 BRIAN ORR: Is that the levels you're talking 25 about?	1 BRIAN ORR: Uh-huh. 2 TROY GERMAN: Oh yeah, but the nonpunitive is 3 in there. The first level is nonpunitive action, which is 4 training, counseling, the things that we do as a 5 supervisor -- 6 BRIAN ORR: Right. 7 TROY GERMAN: -- we want to do. And then you 8 come down, you go, well, the next one is going to be 9 documented, informal. This is phase 1 informal. 10 Then we're going to move into -- and they have 11 this split up. This is the part that I don't agree with, 12 but it's what our policy has. And it says -- and then it 13 has formal discipline is split -- split up into four areas: 14 written up to ten, the 30, the 60, termination. It's split 15 up that much. Is that all right? 16 BRIAN ORR: Good Lord. 17 TROY GERMAN: 1, 2, 3, 4, 5. Where informal is 18 split up into two, the nonpunitive and the formal. But you 19 know what I'm talking about the -- 20 BRIAN ORR: Yes. 21 TROY GERMAN: -- the presumptive? 22 BRIAN ORR: Yes. Yes. 23 TROY GERMAN: Now, I can't imagine -- now, I -- 24 I did this in color. And, of course, it came out in 25 frigging black and white.
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1 TROY GERMAN: Well, now, you said -- yes. But, 2 now, you go -- I've got the same levels, but in the -- in 3 the... 4 In the policy, it does this, but the levels are 5 split. In one of them, they're split here. Because I -- I 6 cut and pasted this. 7 BRIAN ORR: Uh-huh. 8 TROY GERMAN: This is straight out of policy. 9 One of them, it will say the verbal warning, informal and 10 all of that, corrective interview, oral reprimand. Well, 11 that's here. Well, that's not -- that's not the first 12 level. The first level is nonpunitive. And where that 13 actually comes from is on the disciplinary matrix. 14 BRIAN ORR: Uh-huh. 15 TROY GERMAN: If you will look down on the 16 disciplinary matrix, you're talking about the presumptive 17 discipline. 18 BRIAN ORR: Uh-huh. 19 TROY GERMAN: The presumptive discipline, if 20 you will look to the left of it, those seven levels of 21 action are down there. And they reference -- those seven 22 levels of action are referenced earlier in the policy. 23 Well, I agree with you, they're there. What 24 you're talking about, 1, 2, 3, 4, 5, they're there. But 25 this first one, when you say this first level, this VICO?	1 Big deal, using the matrix. I can't imagine 2 this being the case, but to get to these levels of 3 discipline, presumptive. Okay? 4 BRIAN ORR: Uh-huh. 5 TROY GERMAN: Now, the levels of discipline are 6 talked about before, but then in the disciplinary matrix, 7 talked about again. They're listed with presumptive 8 discipline -- 9 BRIAN ORR: Uh-huh. 10 TROY GERMAN: In the same chart. Okay? So if 11 that's what they said, they may be -- it may be as simple 12 as this. "The disciplinary policy, in the matrix 1.31.1 13 talks about the different level -- action levels of 14 discipline in the matrix. What are they?" 15 BRIAN ORR: And that's where you've got to go 16 back to this. 17 TROY GERMAN: And that -- those are seven 18 bullet points that are very easy to give a bullet point 19 out. Does that make sense? 20 BRIAN ORR: Yeah. 21 TROY GERMAN: Because -- because if you're 22 looking at seven bullet points, that's an easy bullet point 23 deal. Does that make sense? 24 BRIAN ORR: Yeah. It does. 25 TROY GERMAN: And if that's it, nonpunitive --

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<p>1 THE WAITRESS: I couldn't see his tea. That's 2 what I was trying -- 3 BRIAN ORR: Sorry. We're talking. Haven't 4 even -- haven't even touched it yet. I'm sorry. 5 THE WAITRESS: No. I was just double-checking 6 you guys. I didn't want to -- 7 TROY GERMAN: There's nonpunitive actions, 8 informal discipline, written reprimand to the level 1 is 9 this, level 2 is that. This is straight -- I mean, the 10 bold is bold in policy. I didn't change the bold. Level 1 11 -- because there's seven levels. Level -- that's that 12 Level 1, Level 2, Level 3, Level -- 13 BRIAN ORR: Well, that's got to be what he's 14 talking about. 15 TROY GERMAN: It's got to be. 16 BRIAN ORR: I mean it's -- 17 TROY GERMAN: That 1, 2, 3, 4, 5 that you're 18 talking about -- 19 BRIAN ORR: Yeah. Yeah. 20 TROY GERMAN: -- is the same thing. And here's 21 the deal, memorize this, not that. Because if you memorize 22 -- here's why. 23 BRIAN ORR: Uh-huh. 24 TROY GERMAN: This has that. They won't take 25 points off for more. Does that make sense what I am</p>	Page 18	<p>1 termination. 2 So they took out demotion. It's not in here. 3 And that is involuntary demotion. Used to be -- used to be 4 considered in Merit. But now it says "and/or demotion, 5 and/or demotion, and/or demotion." It's all included. Now 6 it says 10, 30, 60 "and/or demotion" with all of those. So 7 they're all included in the same levels. 8 If I was going to memorize, even if they do the 9 five, if they say five, go, "Well, I memorized seven, but I 10 think what I have done is I think I broke down two of those 11 -- one of those into two more. So I am going to give you 12 the five I memorized." 13 Because the minute you do the seven, you're 14 going to get their five. Does that make sense? 15 BRIAN ORR: Yep. Yep. 16 TROY GERMAN: You will just be more detailed. 17 BRIAN ORR: Yeah. 18 TROY GERMAN: All right? Because if you look 19 at the -- again, I cut and pasted that straight out of the 20 policy. 21 BRIAN ORR: Well, I pretty much had the same 22 thing with the exception of I didn't have this one. 23 TROY GERMAN: Right. 24 BRIAN ORR: I've got two for one over here. 25 And then these are just broke down 10, 30, 60, where I just</p>	Page 20
<p>1 saying? 2 BRIAN ORR: Yep. Yep. 3 TROY GERMAN: You level this off at them and 4 you go -- they say, "What are the five" -- they go, "Level 5 blah-blah-blah, talking about Levels 1 through -- five of 6 them." 7 And you look at them and you go, "Well, there 8 are seven action -- levels of action mentioned in policy 9 for discipline. Now, the first one is Level 1 is 10 nonpunitive. That could be training, this, this, this, 11 this. Number 2 is what we" -- VICO is how I remember it. 12 BRIAN ORR: That's how I remember it. 13 TROY GERMAN: Then you tell them that. "VICO is 14 how I remember it, but it's the first phase of discipline. 15 It's informal. Verbal warning, informal discussion, 16 corrective interview, that one." 17 Level 3 is when we're moving to formal. That 18 is written reprimand. And it actually separates it out 19 into Level 3. Or Level 4, actually. 1, 2, 3 -- yeah. 20 Level 3, written reprimand. Ask for a piece of paper, they 21 will give it to you. Write it down. They don't take 22 points off for writing things down. They will ask -- they 23 will give you a scratch piece of paper. Level 3, written 24 reprimand. Level 4, no more than ten days. Level 5, no 25 more than 30. Level 6, no more than 60. Level 7,</p>	Page 19	<p>1 had them down over here. 2 TROY GERMAN: 1 to 30? 3 BRIAN ORR: 1 to 30 and 31 to -- 4 TROY GERMAN: Has them. 5 BRIAN ORR: So we're on the same sheet of music 6 here. 7 TROY GERMAN: Correct. 8 BRIAN ORR: I've just got to -- 9 TROY GERMAN: Right. 10 BRIAN ORR: -- flip my brain to do it this 11 away. 12 TROY GERMAN: Now, the using the matrix, I 13 can't imagine -- that is a -- they don't even know it. The 14 majors sitting on the board don't even know how to use the 15 matrix without reading the policy. They don't even give 16 enough discipline out to do that. Okay? Now, we can sit 17 here and talk about using the matrix. I -- you might want 18 to just look at it. The big deal people will screw with 19 is, one, if you have -- usually, when you discipline a 20 trooper, they have done four or five things wrong. 21 BRIAN ORR: Yeah. 22 TROY GERMAN: Whichever one holds the worst 23 category, A, B, C, or D, whichever one of those things they 24 did wrong is the worst one, then that's the one that we 25 use. It's the primary offense. All the others are</p>	Page 21

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<p>1 aggravated. That's the hardest thing to get people -- 2 that's the hardest thing to get past is identifying the 3 hardest one. It means the one that's -- and forget about 4 the rest of them for a minute. Because what the patrol 5 wants to do is start making them aggravated right now.</p> <p>6 BRIAN ORR: Yeah.</p> <p>7 TROY GERMAN: They will go to that category A, 8 B, C, or D, and they will say, "Well, this one is this. 9 This one is mmm-mmm-mmm."</p> <p>10 We're only using one, the one that's the worst. 11 And leave it alone. Then once we identify it, we identify 12 that one with Grade C. Does he have any more violations in 13 that kind of behavior in the last four years? If he does, 14 then it would be violations 1, 2, or 3. It will give us 15 the level of action.</p> <p>16 BRIAN ORR: Yeah.</p> <p>17 TROY GERMAN: Now, level of action, you will 18 have 1 through 7. Now, once we go to that level of action, 19 we go across, it will have a presumptive discipline. 20 That's where we grab the mitigating or the aggravating. 21 And if he has multiple offenses, we up it one. If he has 22 mitigating, we can down it one. Or if he has mitigating 23 and aggravating --</p> <p>24 BRIAN ORR: Lump them together.</p> <p>25 TROY GERMAN: We can lump them. But one thing</p>	Page 22	<p>1 TROY GERMAN: It says, actually, action levels. 2 I mean, it's right there listed. You go 1, 2, 3, 4, 5, 6, 3 7. I mean, they're right -- got the money on them. I 4 mean, as they are defined, I mean, right there next to 5 them, and that's these. So I can't imagine those not being 6 -- with what you said --</p> <p>7 BRIAN ORR: Yeah.</p> <p>8 TROY GERMAN: That -- that should be money 100% 9 on that deal.</p> <p>10 Now, the only one I don't feel is money is the 11 officer-involved -- the member death, because it's like 12 where is he wanting to go with that. That's why I am 13 really wanting to go and hear somebody say, oh, here's how 14 -- here's how it was worded, because then you kind of --</p> <p>15 BRIAN ORR: Yeah.</p> <p>16 TROY GERMAN: You were the IC, not the --</p> <p>17 BRIAN ORR: Well --</p> <p>18 TROY GERMAN: But with what --</p> <p>19 BRIAN ORR: And that's what I've been reading, 20 exactly what you're talking about. The chief is obviously 21 appointing an IC. And because I said -- I -- I wrote it 22 down. That's the way he said it. I wrote it down the way 23 he said it.</p> <p>24 TROY GERMAN: Okay. Now, the Signal 1 plan, 25 you have already listed what? You have --</p>	Page 24
<p>1 you always put in your letter is you -- Merit says this -- 2 they will be considered. All mitigating and aggravating 3 circumstances were considered. None -- or none rocked the 4 penalty outside the presumptive discipline. Don't ever say 5 that -- don't ever indicate that you didn't consider them, 6 because they're supposed to be considered.</p> <p>7 BRIAN ORR: Right.</p> <p>8 TROY GERMAN: Does that make sense?</p> <p>9 But I don't think that's it. If he told you -- 10 if the chief told you what he told you here, he must have 11 read something that talked about those action levels.</p> <p>12 BRIAN ORR: Okay.</p> <p>13 TROY GERMAN: Because there's nothing else that 14 has that. 1, 2, 3, 4 would have been the four duties of a 15 supervisor's responsibilities, supervisory responsibilities 16 here.</p> <p>17 You know, but when he said levels, you told me 18 the level, I am like, "Well, I don't know what that is." 19 But, man, that -- that was a bullet point. You want to 20 talk about bullet points, those are -- those are easy 21 bullet points for a board to sit there and go..</p> <p>22 And it's on the matrix. It's in the policy 23 once. It talks about the -- where I cut and paste, and 24 then on that matrix deal.</p> <p>25 BRIAN ORR: Uh-huh.</p>	Page 23	<p>1 BRIAN ORR: I feel --</p> <p>2 TROY GERMAN: -- eight or nine or ten or 3 something there?</p> <p>4 BRIAN ORR: I feel comfortable with the Signal 5 1 plan.</p> <p>6 TROY GERMAN: Same way, I think it's -- when I 7 did the Signal 1 plan when I got promoted, I didn't -- I 8 got lucky. If somebody ever says anything to you about 9 "You look like you were prepared for that, Lieutenant," you 10 can look right at them and go, "Yeah, Garrett Vowell is 11 easy to read."</p> <p>12 If they look at you figuratively and they say, 13 "What do you mean by that?"</p> <p>14 "Well, I studied everything else." You can 15 even say, "Captain German gave me eight or nine things to 16 read, to study, just like he did the last time. We knew he 17 was making all of these questions." Which were widely 18 known, Major Vowell was making the questions. "Heath 19 Meyer's death the 14th of this month came up, 20 officer/member-involved death. The Vance, Michael Vance 21 deal, Captain was heavily involved in that. We wrote 22 Signal" -- say you helped write or rewrite the Signal 1.</p> <p>23 I mean, you give them -- you just sit there and 24 look at them. "What's he involved with right now." The 25 disciplinary stuff and all of that whole happy horse crap.</p>	Page 25

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<p>1 BRIAN ORR: Yeah.</p> <p>2 TROY GERMAN: Yeah. I think it -- who must</p> <p>3 have been the captain over highway safety. I think he's</p> <p>4 easy to read. I think he -- I think this kind of deal here</p> <p>5 where just you're having to -- that's the kind of crap he</p> <p>6 came up with.</p> <p>7 BRIAN ORR: Yeah.</p> <p>8 TROY GERMAN: Now, the traffic plan, I don't --</p> <p>9 again, this is one of those I wish I knew how it was going</p> <p>10 to be worded. "Lieutenant Orr, you have been -- you're</p> <p>11 going to the Kiwanis Club, and you've got -- you're going</p> <p>12 to give a two-minute presentation on how you're going to</p> <p>13 have Troop A," because this is a Troop A interview. --</p> <p>14 "Troop A's traffic safety plan for the Kiwanis Club."</p> <p>15 Or is it a traffic plan -- traffic safety plan</p> <p>16 for the command staff, traffic safety plan for this</p> <p>17 interview board. It matters. Because if it's a traffic</p> <p>18 safety plan for the Kiwanis Club, you're going to talk to</p> <p>19 them differently than you're going to talk to those five</p> <p>20 uniforms sitting there.</p> <p>21 BRIAN ORR: Yeah.</p> <p>22 TROY GERMAN: The five uniforms speak lingo.</p> <p>23 And your two minutes, you can cover a lot of crap in two</p> <p>24 minutes. Does that make sense?</p> <p>25 BRIAN ORR: Oh yeah.</p>	Page 26	<p>1 TROY GERMAN: But look at them and go -- if it</p> <p>2 was -- if it's the Kiwanis deal, I don't know that I</p> <p>3 wouldn't look at them and say, "On behalf of the Oklahoma</p> <p>4 Highway Patrol and Colonel -- Chief" -- I wouldn't say</p> <p>5 "Colonel," because they don't understand rank.</p> <p>6 "Chief Michael Harrell, appreciate the</p> <p>7 opportunity to come and speak to the local Kiwanis Club.</p> <p>8 One of the things in the presentation I brought is out of</p> <p>9 Troop A down here in Oklahoma City. I work" -- because</p> <p>10 Troop A doesn't mean anything. "Oklahoma City Troop A, how</p> <p>11 we're going to do the traffic safety plan. I believe one</p> <p>12 of the primary duties of the Oklahoma Highway Patrol is all</p> <p>13 the traffic out here. That's what we do. That's why we</p> <p>14 stop cars to save lives. I mean, it's not -- it's not</p> <p>15 for revenue. Even though it brings revenue into the corps</p> <p>16 and the corps programs, that's not why we do it.</p> <p>17 "Technology has made so much things better.</p> <p>18 Cars are safer. Roads are better. We've got better roads</p> <p>19 than we did in 1930. Cars are safer, absolutely, with the</p> <p>20 airbags. Side deployment airbags now. But you can only do</p> <p>21 traffic safety the same way you did in 1937, the same way</p> <p>22 you do it now: engineering, education, and enforcement.</p> <p>23 There are no other ways."</p> <p>24 BRIAN ORR: I've got those written down.</p> <p>25 TROY GERMAN: Oh, absolutely.</p>	Page 28
<p>1 TROY GERMAN: Okay. Now --</p> <p>2 BRIAN ORR: You can't do that with the Kiwanis</p> <p>3 Club --</p> <p>4 TROY GERMAN: Right. So --</p> <p>5 BRIAN ORR: -- and 70-year-old ladies. They</p> <p>6 don't understand what a Signal 83 is.</p> <p>7 TROY GERMAN: Right. So with that being said,</p> <p>8 that's the only thing I want to preface. If they say</p> <p>9 Kiwanis Club, speak plain English.</p> <p>10 BRIAN ORR: Plain English. Yep.</p> <p>11 TROY GERMAN: Tell them "thank you."</p> <p>12 If they say "stand up," I would stand up. If</p> <p>13 they say, "It's a presentation for the Kiwanis Club.</p> <p>14 You're going to give us a mock presentation," I would back</p> <p>15 away from the table and stand up.</p> <p>16 I would look right at them and say, "So y'all</p> <p>17 guys are the Kiwanis Club?" They would probably look at</p> <p>18 you, "Well, we can't tell you that, but give us this."</p> <p>19 I would look at them and say, "Okay. I'm going</p> <p>20 to" -- the HR person will probably -- I hope it's not the</p> <p>21 lady that's on cocaine, but probably will laugh and look at</p> <p>22 them and say -- I don't know that I wouldn't look at them</p> <p>23 and say, "Okay. First of all, we don't have any cocaine in</p> <p>24 the room. Correct?"</p> <p>25 BRIAN ORR: I don't think I will go there.</p>	Page 27	<p>1 BRIAN ORR: Yep.</p> <p>2 TROY GERMAN: Engineering, education, and</p> <p>3 enforcement. There are no other ways, Brother. It doesn't</p> <p>4 matter what technology has done. It doesn't matter if we</p> <p>5 have more miles driven, if we have more cars on the road.</p> <p>6 It doesn't matter what technology has done. We have just</p> <p>7 added more to it.</p> <p>8 I would use personal stuff when I was talking</p> <p>9 to these guys, not because it's a bullet point, because it</p> <p>10 will be an example that might be an extra five percent,</p> <p>11 half a point that they give you for something that you use</p> <p>12 that's not a bullet point, but they give you half a point.</p> <p>13 Look at how they're doing I-40. Why are they increasing it</p> <p>14 to six lanes? That's an engineering feat. It's not</p> <p>15 enforcement and that's not education. That's engineering.</p> <p>16 The I-44, the turnpike, increasing it to six</p> <p>17 lanes. That's an engineering feat. That's why we do that.</p> <p>18 Why are they redoing the I-240 interchange? The wrecks.</p> <p>19 It's one of the worst interchanges in the history of the</p> <p>20 world. We're not going to do it with enforcement. We can</p> <p>21 sit a trooper down there 24/7, it's not going to make that</p> <p>22 traffic plan any better there. They had to straighten that</p> <p>23 out. They had to make that to where it's no longer a</p> <p>24 cloverleaf, to where it has a wide turn, where it takes</p> <p>25 forever to merge in, give them plenty of view. That's in</p>	Page 29

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<p>1 engineering. I would use engineering, and I would give 2 them examples of engineering. 3 Where you set up traffic lights here in Shawnee 4 at intersections because they started having so many 5 collisions at stop signs and uncontrolled that then you 6 start having a more controlled intersection, stoplights 7 instead of stop signs. You know, I would use examples, 8 things that they -- they -- because they will have 9 examples. But their examples may have four or five, and 10 you want to hit as many of those examples as you can 11 because you don't want one of those guys to say, "Well, he 12 only hit one." Give them three or four on engineering. 13 Now, the -- collect the data. There will be 14 some that won't say this, I promise you. Brother, if 15 you're going to do a traffic safety plan in Troop A, you 16 can't just go out there and throw darts at a board with 17 your eyes closed. I know you know this, but you're going 18 to have to -- you know it, but you're going -- and they 19 know it, but you're going to have to tell them you know it. 20 Does that make sense what I am saying? 21 BRIAN ORR: Uh-huh. Uh-huh. 22 TROY GERMAN: You're going to have to collect 23 the data for them somewhere or how. You can look at what I 24 used here. You've got ODOT data. You've got Safe-T. 25 You've got Parish. You've got -- I almost forgot to put</p>	Page 30	<p>1 problems in Troop A. 2 BRIAN ORR: Yeah. 3 TROY GERMAN: Just like there is anywhere else. 4 I pick the top three. Once I pick the top three, that's 5 where I don't know if it's a DUI deal, traffic collision 6 reduction plan, or what it is. But I would like to know if 7 this was a traffic safety plan, because it doesn't just 8 have to do with collisions, if they say "traffic plan," 9 "traffic safety plan," because that's just the collisions 10 because then I would switch gears. 11 I would go "What about DUI enforcement? What 12 are we going to do about that? That's a traffic safety 13 plan. What are we going to do about that?" 14 Because highway safety, think you're going to 15 have anything about highway safety and all of that? 16 Working with other agencies pulling together, how we used 17 to have those big emphasis, and we would pull troops in 18 from across the state. Pull all of your resources in. 19 Oh, here's one that he would love. It's called 20 maintenance of effort. If you want to write down 21 "maintenance of effort." That is a federal term saying 22 that, you know, we can get all the grant money we want, but 23 they want to see maintenance of effort. In other words, 24 they want to see us doing our part without overtime money. 25 Do we go out and hold special emphasis that</p>	Page 32
<p>1 Highway Safe Jobs. This is Garrett. 2 BRIAN ORR: Yeah. You know that will -- 3 TROY GERMAN: They've got -- they've got data 4 analysts down there at Highway Safe Jobs I call all the 5 time to get all of our data. 6 BRIAN ORR: Yep. I did it when I was in A -- 7 TROY GERMAN: Yeah. 8 BRIAN ORR: -- all the time. 9 TROY GERMAN: Yeah. I would make sure I would 10 say that. You were about to -- say "Major" -- go, "Major, 11 Highway Safe Jobs, I called them all the time down there. 12 Called them to get their intel, their data people down 13 there to compile the data. I got data from them all the 14 time." I would say, "We use Chris Rogers down there with 15 the GIS down there at Paris. Chris Rogers will do spot 16 maps for us. But we can't do anything on a traffic safety 17 plan if I don't know where the problem is. Because the 18 first thing I must do is identify the problem." 19 BRIAN ORR: Yeah. 20 TROY GERMAN: So once I -- 21 THE WAITRESS: You guys doing all right? 22 TROY GERMAN: Yes, ma'am. 23 THE WAITRESS: I'm just checking on you. 24 TROY GERMAN: I appreciate it. 25 Once we identify the problem, because there are</p>	Page 31	<p>1 isn't overtime money. Does the captain schedule special 2 emphasis for DUI or seat belt enforcement. It has nothing 3 to do with overtime highway safety money. They go out and 4 do it on their own, because that's what we do. 5 BRIAN ORR: See, I can remember this because we 6 have to do this in Troop S. 7 TROY GERMAN: For federal money. 8 BRIAN ORR: It's federal money. 9 TROY GERMAN: That is exactly right. 10 BRIAN ORR: That goes -- 11 TROY GERMAN: But those guys will know what 12 that is. Tim will know what it is. Garrett, I guaranty 13 you he will know what it is. And that will be one of those 14 half points that you can get check off on on a bullet 15 point. 16 When you're talking about education, use 17 examples of programs, radio, newspaper, billboards, rad- -- 18 social media is huge. Troop A, I would talk about how I 19 would have my own Troop A social media that would be 20 approved by the AO, public affairs, and also my major. If 21 something is happening on the weekend in Troop A, I want 22 Troop A -- Troop B has it, things around the Roosevelt 23 Bridge, that big deal that happened down there. 24 BRIAN ORR: Why don't we have it at A now? 25 TROY GERMAN: (Inaudible). No one is leaning</p>	Page 33

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<p>1 forward. No one is -- no one is thinking outside the box, 2 Brian. We're low on manpower. We get that. So how are we 3 going to think outside the box? I would lay that out 4 there. I would lay that there. Everybody knows we're low 5 on manpower. I would look right at them -- I would sit 6 back and visit with them, if it's that kind of interview. 7 Question on the traffic plan deal, I would look 8 at them and say, "Gentlemen, everybody knows we're low on 9 manpower. That is not something I can fix as a troop 10 commander, but I can think outside the box. I can, on the 11 enforcement, take everybody that day, leave one guy in 12 Pottawatomie and Lincoln County, and shove all of my 13 manpower over in Payne County because my collision picture 14 is right. And I know that because of all of this 15 collection of data." 16 I would say, "I will know where to put my men. 17 I will look at my lieutenants and say this is where we're 18 going. This is -- we're taking all of our men and we're 19 going over here. And then we will go over here to this 20 problem area. We will go to this problem area." 21 Then I would look right at Major McCoy and say, 22 "I believe you do that now." You look at him and say 23 "Captain German told me you do that now, and you ended up 24 changing your problem areas." He concentrated so much on 25 those problem areas that, when they ran the data later,</p>	<p>Page 34</p> <p>1 collisions, but then I would talk about DUI enforcement. I 2 would talk -- because I would let them know I know it's 3 more than just that. 4 BRIAN ORR: Yeah. 5 TROY GERMAN: But the data collection, where 6 are my high -- where are my high problem areas? Mondays? 7 Fridays? What are they? 8 BRIAN ORR: They are Mondays and Fridays. 9 TROY GERMAN: Sure they are. Yeah. I know. I 10 was there. 11 BRIAN ORR: Because everybody is pissed off 12 because they're going back to work. And Fridays, everybody 13 is ready to get home. 14 TROY GERMAN: Highway safety, using their money 15 to coordinate with them in media releases, DUI checkpoints, 16 DL checkpoints. What did I say? Aircraft. Nobody -- when 17 is the last time -- those are not hardly ever used like 18 they used to be. 19 My guys will call on Greg Thompson out there. 20 They will call that Air -- that Pilot Thompson out there on 21 their own now and get him out there working on 40 and 22 stuff. 23 BRIAN ORR: Right. 24 TROY GERMAN: But they weren't near -- guys, 25 you can look at this stuff. If you have a high collision</p>
<p>Page 35</p> <p>1 they changed. They went somewhere else. They had to do it 2 somewhere else. 3 BRIAN ORR: See, how I can remember that too is 4 we do that with Troop S. Our problem areas were trucks. 5 TROY GERMAN: Shift. 6 BRIAN ORR: Yeah. We will send ten guys. 7 TROY GERMAN: So what you're showing -- say 8 because you say, "It's not -- this isn't just something 9 that you -- that you read in a book. Guys, this works. I 10 know it works. We do this in S. We would have problem 11 areas with trucks, we would go saturate it, we would 12 manipulate the schedule and whatever we had to do. Problem 13 areas shift. It wouldn't be here anymore. They would go 14 over here. Same way with the traffic safety plan. Guys, a 15 traffic safety plan isn't just collisions. It's seat belt 16 enforcement, DUI enforcement." 17 That's why I would like to know if it's a 18 collision reduction plan. 19 BRIAN ORR: Yeah. 20 TROY GERMAN: Or a traffic plan, because 21 there's -- 22 BRIAN ORR: Yeah. He said "traffic." 23 TROY GERMAN: Okay. 24 BRIAN ORR: So... 25 TROY GERMAN: Because I would talk about</p>	<p>Page 37</p> <p>1 day, don't let that be a day off. Tell your lieutenants, 2 "Rework the schedule. No days off on Tuesdays or Mondays," 3 or Thursdays or Wednesdays, whatever it is, because it 4 shifts. It's not always the same. 5 BRIAN ORR: Yeah. 6 TROY GERMAN: Shift your manpower. 7 And if your collision picture is on swings, 8 because it is in Troop A. It has to be -- It had to be. 9 And it doesn't matter if the troopers like day shifts. 10 We're here to -- we're here to actually accomplish a job. 11 BRIAN ORR: Yeah. 12 TROY GERMAN: Now -- 13 (End of recording)</p>

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CERTIFICATE

2 STATE OF OKLAHOMA)
3 COUNTY OF OKLAHOMA)
4

5 I, Lori Johnston Harstad, a Certified Shorthand
6 Reporter for the State of Oklahoma, certify that the
7 transcription of the audio recording was taken by me in
8 stenotype and thereafter transcribed by computer and is a
9 true and correct transcript of the recording to the best of
10 my ability; that the transcription was taken by me on July
11 27, 2020, at 11:00 a.m. in Edmond, Oklahoma; and that I am
12 not a relative, employee, attorney or counsel to any party
13 in this case or a relative or employee to any counsel in
14 this case or otherwise financially interested in this
15 action.

16 Witness my hand and seal of office on this 27th day
17 of July, 2020.

18
19
20 Lori Johnston Harstad, CSR, RPR, RSA
21 CSR# 01726 NCRA# 053265
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23
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